

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Rules and Regulations Implementing the	)	CG Docket No. 02-278
Telephone Consumer Protection Act of 1991	)	CC Docket No. 92-90
	)	
	)	
	)	

ACUTA, Inc.: The Association for Communications Technology Professionals in Higher Education<sup>1</sup> and ACUHO-I, the Association of College and University Housing Officers-International<sup>2</sup> (the Higher Education Associations) respectfully submit these comments in response to the Federal Communications Commission's ("FCC's" or "Commission's") *Notice of Proposed Rulemaking* in the above-captioned proceeding.

ACUTA member representatives are responsible for managing telecommunications services on college and university campuses. In this capacity, ACUTA members provide telecommunications services to students in their residence halls and other campus-owned housing. ACUHO-I members are responsible for managing campus housing facilities.

The Higher Education Associations are supportive of the Commission's decision to re-examine its rules concerning telephone solicitations in this proceeding. As administrators of telecommunications services for the estimated 2.5 million students who live in campus housing at colleges and universities throughout the United States, members of the Higher Education Associations are concerned for the welfare of students residing in campus

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<sup>1</sup> ACUTA: The Association for Communications Technology Professionals in Higher Education is a non-profit association whose members include over 870 colleges and universities throughout the United States, Canada and other countries. ACUTA members include both large and small non-profit institutions of higher education, ranging from colleges with several hundred students to major research and teaching institutions with 25,000 students or more. ACUTA member representatives are responsible for managing telecommunications services on college and university campuses.

<sup>2</sup> ACUHO-I: The Association of College and University Housing Officers – International is a non-profit association whose members include over 900 colleges and universities throughout the United States in addition to a number of international members. Its members include non-profit institutions of higher education with on campus housing capacities ranging from under 100 to over 17,000. ACUHO-I member institutions house over 1.8 million students.

housing. We support any efforts to regulate and prevent illegal, misleading, or unwanted telemarketing activities targeting our students. We offer the following comments regarding various aspects of the Commission's request for comment.

In particular, we urge the Commission to ensure that college students' on-campus "home" numbers are protected by the Commission's efforts, regardless of how colleges and universities' lines are categorized. (Student lines are classified as residential or business lines, depending upon the jurisdiction.) Moreover, the Higher Education Associations advocate the adoption of a single national do-not-call list supported by both the FCC and the Federal Trade Commission.

#### I. Effectiveness of Company-Specific Do-Not-Call Lists

Company-specific do-not-call lists are not an effective or practical solution for colleges and universities to utilize in preventing undesirable telemarketing calls targeted to students. Colleges often manage thousands of student telephone lines. The current system would require a college to place each of these lines on do-not-call lists for each company individually. Our experience is that it is often very difficult to track down and make contact with the companies making the calls, and to place our telephone numbers on do-not-call lists.

For example, in October, 2002 ACUTA's list serve contained a discussion thread regarding waves of telemarketing calls being made to students on various campuses. In order to request placement on the companies' do-not-call lists, our members were required to ask their students to request the company name and a call back number when they received these calls. The telecommunications administrators had to then contact the companies directly and request that their blocks of numbers be placed on their do-not-call lists. Students reported that the telemarketers sometimes quickly hung up when they requested name and contact information from the callers. This was repeated on various campuses hundreds or thousands of times as calls were made to all campus residence phones.

In addition, the effectiveness of company-specific do-not-call lists is hampered by the fact that organizations in the current business environment often operate under multiple affiliate and subsidiary names, and companies involved in questionable marketing practices often go out of business and quickly resurface under a different corporation or company name. Being placed on a company's do-not-call list is no guarantee that a consumer would not receive calls from the same players operating under a different company name.

If the Commission should decide to retain company-specific do-not-call lists, the Higher Education Associations would favor many of the proposed modifications that are listed in the NPRM at para. 17, including Web access for registration of do-not-call requests, accommodations for customers with disabilities, and a set time frame within which companies must comply with do-not-call requests. We do not favor a ten-year limit on

do-not-call registrations; such requests should be perpetual unless the consumer requests to be removed from the list.

## II. National Do-Not-Call List

The Higher Education Associations support the creation of a national do-not-call list. We believe that a national do-not-call list would provide a centralized method of recording the preferences of consumers who do not wish to receive telemarketing calls. In addition to benefiting consumers, this do-not-call list could also benefit telemarketing firms by providing a centralized database of consumers who have expressed this preference.

Further, we urge the Commission to consider expanding the applicability of such a list to include students who reside in campus housing, even if the telephone lines to their dormitories and other campus housing are technically considered business telephone lines.

The typical arrangement for providing residential phone service to students in campus housing is through telephone lines that are provided by the college or university, either through a PBX or via Centrex service. In most cases, these lines are considered business lines under state and FCC rules. However, this places an unfair burden upon students who reside in campus housing, and who may also be more susceptible to telemarketer abuses. The number assigned to a student by a college or university is that student's primary residential number for the school year, which can range from eight to twelve months, depending upon the student's schedule. We strongly believe that students who live in campus housing deserve the same protections from fraudulent or unwanted telemarketing calls that residents in other types of housing receive.

## III. Cooperation with the FTC Do-Not-Call Proceeding

ACUTA and ACUHO-I have previously commented to the Federal Trade Commission ("FTC") in its current proceeding to review the Telemarketing Sales Rule (TSR) (File No. R41101), and a copy of our comments filed March 29, 2002 is appended to these comments as Appendix I.

We suggest that the current proceedings being undertaken by the FCC and the FTC offer a unique and important opportunity for the two agencies to work cooperatively to develop a single service that would greatly benefit consumers and ease the burden of compliance for companies engaged in telemarketing. We encourage the Commission to avoid duplication of effort, and work with the FTC to create a single national do-not-call list that would enable consumers to register their do-not-call preferences one time with a single federal entity. We recommend that the two agencies establish a joint working group with responsibility for negotiating and resolving any inconsistencies in procedure or interpretation between the two proposals.

One possible method for the FCC and FTC to jointly administer a national do-not-call list would be for both agencies to jointly contract with a single entity to create and manage the database, overseen by a joint body composed of staff from both agencies.

The Higher Education Associations further support the extension of any national do-not-call requirements that may eventually be adopted by the FTC to include entities that are not currently under the jurisdiction of the FTC, including specifically common carriers, banks, and insurance companies. A significant percentage of telemarketing activity targeting students is conducted by these entities, and we believe that students and other consumers should receive the same type of protection from these entities as from other types of commercial solicitations.

#### IV. Coordination with State Do-Not-Call Lists

We believe that the suggestion in para. 62 of the NPRM, whereby states would administer do-not-call lists with regard to intrastate telemarketing calls, and the FCC would regulate interstate telemarketing calls, could become confusing for consumers and burdensome for telemarketers. We believe that the national do-not-call list is essential for the regulation of telemarketing, since many telemarketing companies operate across state lines, and we would prefer one national list for purposes of simplicity.

However, to the extent that the “opt in/opt out” method described in para. 62 of the NPRM would ensure that state rules are consistent with the federal rules in those states that “opt in”, and consumers in “opt out” states could register directly with the federal entity, we would support this system as a means of resolving the concerns of state regulators.

#### V. Summary

In conclusion, the Higher Education Associations support the creation of a national do-not-call list for the purpose of consumers who object to receiving telephone solicitations. In addition, we strongly urge the Commission to extend the jurisdiction of such lists beyond residential telephone subscribers to include students residing in campus housing, even for those student lines that are categorized as “business” lines for other purposes. We trust that the FCC and FTC can work together to create a single jointly administered national do-not-call registry.

Thank you for your consideration of these comments.

Respectfully submitted,

By: \_\_\_\_\_

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December 9, 2002

March 28, 2002

Office of the Secretary, Room 150  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580

Re: Telemarketing Rulemaking – Comment  
FTC File No. R411001

Submitted via electronic mail to [tsr@ftc.gov](mailto:tsr@ftc.gov)

On behalf of ACUTA: Association for Telecommunications Professionals in Higher Education and ACUHO-I, the Association of College and University Housing Officers-International (the Higher Education Associations), we respectfully submit comments to the Commission on the proposed changes to the FTC's Telemarketing Sales Rule, 16 CFR Part 310.

1. ACUTA: The Association for Telecommunications Professionals in Higher Education is a non-profit association whose members include over 870 colleges and universities throughout the United States, Canada and other countries. ACUTA members include both large and small non-profit institutions of higher education, ranging from colleges with several hundred students to major research and teaching institutions with 25,000 students or more.
2. ACUTA member representatives are responsible for managing telecommunications services on college and university campuses. In this capacity, ACUTA members facilitate the provision of telecommunications services on telephone lines owned by colleges and universities, to students in their residence halls and other campus-owned housing. Because of our role in providing telecommunications services to students, ACUTA members are concerned for the welfare of students residing in campus housing, and we support any efforts to protect our students from fraudulent, deceptive or abusive telemarketing practices.
3. ACUHO-I: The Association of College and University Housing Officers – International is a non-profit association whose members include over 900 colleges and universities throughout the United States in addition to a number of international members. Its members include non-profit institutions of higher education with on-campus housing capacities ranging from under 100 to over 17,000. ACUHO-I member institutions house over 1.8 million students.
4. ACUHO-I members are responsible for providing quality residential living experiences at colleges, universities, and other post-secondary institutions. They are

responsible for ensuring the safety and welfare of campus housing residents, and for ensuring that the campus living experience is positive and educational. They strive to provide campus housing that creates and supports a learning experience for students.

5. The Higher Education Associations commend the Commission for seeking to enhance the protections against fraudulent, deceptive and abusive telemarketing practices that are afforded consumers under the Telemarketing Sales Rule (TSR). We believe that the proposed changes are necessary and appropriate to respond to changes in communications technologies and changes in the methods and practices of telemarketers.

6. The Higher Education Associations support the creation of a national “do not call registry” as specified in Section 310.4 (b)(1)(iii)(B) of the proposed amendment to the TSR. We believe that this Registry would provide a centralized method of recording the preferences of consumers who do not wish to receive outbound telemarketing calls. In addition to benefiting consumers, this Registry could also benefit telemarketing firms by providing a centralized database of consumers who have expressed this preference.

7. We also support the provision in Section 310.4(a)(6), which prohibits telemarketers from blocking, circumventing, or altering transmission of calling party identification information. Many campuses have implemented caller ID capabilities for their students, where the telecommunications technology in use on the campus is capable of providing such services. We believe that students, like any other consumers, have the right to obtain calling party identification if they have subscribed to caller ID service.

8. In addition, as young people who are often inexperienced in business transactions, college students can be particularly vulnerable to deceptive, abusive, or fraudulent telemarketing practices. Therefore, the proposed rules pertaining to express verifiable authorization for billing (Section 310.3(a)(3)) and prohibited acts in the solicitation of charitable contributions (Section 310.3(d)) would be especially useful as protections for students.

9. However, we are very concerned that the rules as currently written might not extend the protection of the “do not call” registry and other provisions of the TSR to the more than 2.5 million students who reside in campus housing at colleges and universities throughout the United States. The typical arrangement for providing residential phone service to students in campus housing is through telephone lines that are owned by the college or university. In all but a handful of cases, these lines are considered business lines under state and Federal (FCC) rules, and subject to the applicable rules for business lines. Therefore, our interpretation of the TSR is that the “business to business” exemption under Section 310.6(g) of the TSR may apply to student residence lines, excluding the exceptions specifically stated in the proposed rules.

10. The application of the “business to business” exemption in this situation places an unfair burden upon students who reside in campus housing. The number assigned to a

student by a college or university is that student's primary residential number for the school year, which can range from eight to twelve months of the year, depending upon the student's schedule. We strongly believe that students who live in campus housing deserve the same protections of the TSR that residents in other housing receive. They deserve the right to maintain their place of residence as an environment for study, learning, and other aspects of campus living, free of telemarketing abuse.

11. In addition, with the proliferation of telemarketing schemes that seek to bill for various goods and services on the telephone bill, another problem arises that makes application of the TSR rules in campus housing necessary. Although we recognize that the FTC does not have jurisdiction over common carriers, there are various types of non-telecommunications goods and services (such as information services, clubs, psychic hot lines, Internet access accounts, etc.) that can be billed to telephone accounts. As stated in ACUTA's comments to the Commission in your "Pay per Call" proceeding<sup>3</sup>, because students are not the "owners" of telephone lines to their campus housing, they do not have the authority to make purchases that are billed to their telephone lines. Authorization for such purchases must come from the institution, which is the owner of the lines. However, such charges are often erroneously billed to telephone lines, appearing on the university's telephone bills without obtaining proper authorization. Extension of the TSR rules to telephone lines in student housing would help to reduce the number of these unauthorized charges, by allowing institutions to place these numbers on the "do not call" registry. This would be consistent with similar rules that restrict the ability to order telecommunications services billed to a number, such as a change of long distance carrier, to the actual owner of the line---the university.

12. In Section IX, Questions for Comment on the Proposed Rule, paragraph D. 5. e., the Commission asks who should be permitted to request that a telephone number be placed on the "do not call" registry. For the reasons stated in paragraph 11 above, the Higher Education Associations' response to this question is that the line subscriber---the owner of the telephone line---should be the only individual who is authorized to place a number on the registry.

13. Recognizing that a change in the law would be necessary in order to extend the jurisdiction of the FTC to include telemarketing fraud and abuse by common carriers, we believe there would be merit in exploring the feasibility of such a change. A significant percentage of the telemarketing that takes place in student residences, as in any other residence, is for telecommunications services provided by a common carrier. However, the regulations for telemarketing by common carriers are currently inconsistent with those for other types of businesses, and many of the protections afforded consumers under the TSR rule are not applicable to these telecommunications companies. We believe that consumers would benefit from consistency in these rules, and suggest closer

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<sup>3</sup> See Comments of ACUTA: Association for Telecommunications Professionals in Higher Education FTC Pay Per Call Proceeding FTC File No. R611016, March 10, 1999; and Further Comments of ACUTA: The Association for Telecommunications Professionals in Higher Education, June 1, 1999.



coordination between the FTC and FCC rules, and/or extension of jurisdiction of the TSR to include common carriers.

14. Because of the issues outlined in paragraphs 10 and 11 above, we urge the Commission to design the “do not call” registry in a manner that allows ranges of telephone numbers, not just individual telephone numbers, to be placed on the Registry. Most colleges and universities have a range of hundreds or thousands of numbers assigned to student housing. We need the ability to extend the protection of the TSR to all of our student residents, and it would be impractical to enter these numbers individually. In addition, because students may change rooms and therefore change telephone numbers during a given year, it would be far more feasible and accurate to enter a range of numbers than hundreds to thousands of individual numbers per institution.

15. In Section IX, Questions for Comment on the Proposed Rule, paragraph D. 5. d., the Commission asks how long a telephone number should remain on the “do not call” registry. Due to the many issues involved in maintaining such a potentially large database, we recommend that the number remain in the database until the owner of the number requests its removal, or the number is disconnected. Requiring periodic renewals would create an unnecessary burden for those charged with maintaining the database, an inconvenience for consumers who would be required to re-list their numbers, and an opportunity for confusion and misunderstandings on the part of consumers, telemarketers, and enforcement personnel.

16. In summary, The Higher Education Associations respectfully urge the Commission to take the opportunity provided by this rulemaking proceeding to extend the protections of the Telemarketing Sales Rule to students residing in college and university housing. Our college students deserve the right to expect that they will be protected in their places of residence from fraudulent, deceptive or abusive telemarketing practices as defined in the TSR.

Respectfully submitted,

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